

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 121OF 2007

M/s. MAA DURGA ENTERPRISES
(PVT.) LTD., a company duly
incorporated under the provisions
of the Companies Act, 1956 having
its registered office at L-1,
Cuncolim Industrial Estate,
Cuncolim, Goa 403 705

..... Petitioner.

V/s.

1. The Commissioner of Commercial
Taxes, Headquarters Old High Court
Building, M.G. Road, Panaji, Goa.

2. The Assistant Commissioner of
Commercial Taxes (I), Near KTC Bus
Stand, Margao, Goa.

3. Mr. Harish Adconkar,
Commercial Tax Officer,
Near KTC Bus Stand,
Margao, Goa.

..... Respondents.

Mr. Nitin Sardessai, Advocate for the petitioner.

Ms. L. Dharwadkar, Addl. Govt. Advocate for the respondents.

CORAM : S.A. BOBDE, J.

DATE : 22nd March, 2007.

ORAL JUDGMENT :

Heard. Rule, returnable forthwith. Heard by consent.

2. The only point raised by the learned Counsel for the petitioner is

that the notice dated 19/1/2007 by which the Commissioner of Commercial Taxes has purported to exercise suo motu power of revision is without any authority of law. According to the learned Counsel, the order made under Section 7(3H) of the Central Sales Tax Act, 1956 ('the Act' for short) attains finality and, in any case, it cannot be subjected to a suo motu revision.

3. The learned Counsel for the respondents is not in a position to point out any power under which the Commissioner of Commercial Taxes may, suo motu, revise the orders which have attained finality under Section 7(3H) of the Act. The learned Counsel for the respondents referred to the provision quoted by the Commissioner of Commercial Taxes under Section 9(2) of the Act. In the impugned order, the Commissioner has stated that the proceedings are being conducted under Section 9(2) of the Central Sales Tax Act, 1956, read with Section 39 of the Goa Value Added Tax Act, 2005. However, a perusal of Section 9(2) does not disclose any such power in the Commissioner to revise the order which has attained finality under Section 7(3H) of the Act. It is not necessary to consider any power under the Goa Value Added Tax Act, 2005 since in the Notice cum order Order No.CCT/Maadurga/2-8/06-07/54 the Commissioner has purported to exercise power under sub-section (2) of Section 9 of the Act.

The impugned Notice cum order Order No.CCT/Maadurga/2-8/06-07/54 is, hereby, quashed. The rule is made absolute in the above terms.

S.A. BOBDE, J.